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JURY CONSIDERING PORTUGAL FLIGHTS

Defense Again Asserts C.I.A.
Sanctioned Sale of B-26's

By DOUGLAS ROBINSON
Special to The New York Times

BUFFALO, Oct. 13—The trial involving a British pilot and a French nobleman accused of illegally exporting seven World War II bombers to Portugal last year was put in the hands of the jury late this afternoon. The panel—10 men and two women—will decide whether the defendants "knowingly and willfully" violated a Federal law in flying or conspiring to send the planes to Europe as part of a transaction that was eventually supposed to entail the sale of 20 bombers.

The defendants, John R. Hawke, a former Royal Air

Force pilot, and Count Henri Marie Francois de Montmarin, a French airplane broker, face a total sentence of nine years in prison or fines of \$60,000 or both, if they are convicted of one count of conspiracy and two counts of actually transporting the planes.

The two were charged with violating the Munitions Control Act, which forbids the exporting of war material to any foreign country except Canada without a license. Involved are the sale of seven World War II surplus B-26 Invader bombers.

Possible Sentences

Under the law, Mr. Hawke and Count de Montmarin could receive five years and fines of \$10,000 each on the conspiracy count, and two years and fines of \$25,000 each on both of the substantive counts.

Both defendants were indicted last year, along with Gregory R. Board, a Tucson, Ariz., businessman, now said to be living on the island of Jamaica. Charges against two other men

were dismissed during the trial here for lack of evidence.

In summing up today, the lawyer representing Mr. Hawke returned to his theme that the entire operation had been carried out with the authorization or tacit approval of the Central Intelligence Agency under the code name of Operation Sparrow.

Earlier this week, Lawrence R. Houston, general counsel of the C.I.A., denied that his agency had been involved in any way.

Mr. Hawke's lawyer, Edwin Marger of Miami Beach, referred to the case as "the 10 little Indians and the fairy godfather."

The 'Fairy Godfather'

The Indians, he told the jury, would be all of the people involved in the operation, including the defendants, Mr. Board and various accountants and businessmen. The "fairy godfather" was the Government—"a ghost, a spook, a little man who was not seen who always tapped Mr. Hawke's shoulders

with a bit of fortune," he said.

Throughout the trial Mr. Marger has attacked agents of various Government agencies who allowed Mr. Hawke to leave the country in the bombers without checking to see if he had an export license.

Edward Brodsky of New York, the lawyer representing Count de Montmarin, said his client had never in all his former dealings with the sale of aircraft from the United States to Europe faced the necessity of obtaining export licenses.

In his summation, United States Attorney John T. Curtin restated his contention that both men knew they were breaking the law. He dismissed the argument that the C.I.A. was involved as "ridiculous."

The bombers, which were flown to Tancos Air Force Base near Lisbon, were said to have been for eventual use against an alleged Communist Chinese-trained uprising in Portugal's African territories of Mozambique and Angola.